

AMENDED IN SENATE JUNE 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1366**

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**Introduced by Assembly Members Feuer, Caballero, and  
Audra Strickland**

**(Coauthor: Assembly Member John A. Perez Coauthors: Assembly  
Members John A. Perez and Salas)**

February 27, 2009

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An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that maintains a community sewer system within specified areas of the state to take action, by ordinance ~~or resolution~~ and after a public meeting, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of the state, if the appropriate regional board makes a finding that the control of residential salinity input will contribute to the achievement of water quality objectives. The bill would state related

findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Recycled water provides additional water supplies that are  
4 a cost-effective and reliable method of helping to meet California's  
5 water needs.

6 (b) The Water Recycling Act of 1991 established a statewide  
7 goal to recycle a total of 700,000 acre-feet of water per year by  
8 2000, and one million acre-feet of water per year by 2010.

9 (c) The 2005 California Water Plan indicates that the statewide  
10 potential for recycled water use by 2030 is between 900,000  
11 acre-feet to 1.4 million acre-feet per year. Based on this projection,  
12 the state will fall far short of the goal of recycling one million  
13 acre-feet per year by 2010, unless new policies are enacted to  
14 accelerate recycled water use.

15 (d) Elevated levels of salinity in community sewer systems can  
16 hinder needed water recycling projects, and discharges from those  
17 systems may impair groundwater resources and surface waters of  
18 the state.

19 (e) ~~The State Water Resources Control Board's Recycled Water~~  
20 ~~Policy requires every region in California to develop a salt/nutrient~~  
21 ~~management plan by 2014 to assist regions in providing a clean~~  
22 ~~and abundant water supply. Policy is intended to support an~~  
23 ~~increase in the use of recycled water from municipal wastewater~~  
24 ~~sources in a manner that implements state and federal water quality~~  
25 ~~laws. Some groundwater basins in the state contain salts and~~  
26 ~~nutrients that exceed or threaten to exceed water quality objectives~~  
27 ~~established in the applicable water quality control plans. The~~  
28 ~~policy requires every groundwater basin or subbasin to have a~~  
29 ~~salt and nutrient management plan that includes adequate~~  
30 ~~implementation procedures for achieving or ensuring compliance~~  
31 ~~with the water quality objectives for salt or nutrients.~~

32 (f) Existing law allows regulation of discharges from industrial,  
33 commercial, and agricultural sources, but severely limits local

1 public agencies from regulating salinity discharges from residential  
2 self-regenerating water softeners, which can discharge up to one  
3 pound of salt per day.

4 (g) The California Water Recycling Task Force Report of 2003,  
5 prepared by the Department of Water Resources and the State  
6 Water Resources Control Board, recommends that current law be  
7 changed to allow local public agencies more control over salinity  
8 from residential self-regenerating water softeners.

9 (h) It is the intent of the Legislature to require local public  
10 agencies to consider local economic issues and other community  
11 input before taking action to regulate residential self-regenerating  
12 water softeners.

13 (i) It is the intent of the Legislature, by enacting this act, to give  
14 local public agencies additional authority to regulate residential  
15 self-regenerating water softeners, especially in areas of the state  
16 with water bodies adversely impacted by salinity and high use  
17 groundwater basins that are hydrogeologically vulnerable to  
18 contamination.

19 SEC. 2. Section 13148 is added to the Water Code, to read:

20 13148. (a) This section applies to the following hydrologic  
21 regions as identified in the California Water Plan: Central Coast,  
22 South Coast, San Joaquin River, Tulare Lake, and the Counties of  
23 Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

24 (b) ~~Notwithstanding Article 1 (commencing with Section~~  
25 ~~116775) of Chapter 5 of Part 12 of Division 104 of the Health and~~  
26 ~~Safety Code, if a regional board with jurisdiction over a region~~  
27 ~~identified in subdivision (a) makes a finding at a public hearing~~  
28 ~~that the control of residential salinity input will contribute to the~~  
29 ~~achievement of water quality objectives, any local agency that~~  
30 ~~maintains a community sewer system affected by the finding, may~~  
31 ~~take action by ordinance or resolution after at least one public~~  
32 ~~meeting to take into consideration local economic issues and other~~  
33 ~~community input, to control salinity inputs from residential~~  
34 ~~self-regenerating water softeners, to protect the quality of the~~  
35 ~~waters of the state. The finding may be made in any of the~~  
36 ~~following water quality actions adopted by regional board:~~

- 37 ~~(1) Water quality control plans.~~
- 38 ~~(2) Waste discharge requirements.~~
- 39 ~~(3) Master reclamation permits.~~
- 40 ~~(4) Water recycling requirements.~~

1     ~~(5) Cease and desist orders.~~ *Safety Code, any local agency that*  
2 *owns or operates a community sewer system or water recycling*  
3 *facility that is subject to a finding made by a regional board*  
4 *pursuant to subdivision (e) may take action to control salinity input*  
5 *from residential self-regenerating water softeners to protect the*  
6 *quality of the waters of the state. A local agency may take action*  
7 *only by enactment of an ordinance after a public hearing. The*  
8 *local agency shall allow interested members of the public a*  
9 *reasonable opportunity at the public hearing to testify with regard*  
10 *to the matters under consideration, including, but not limited to,*  
11 *water quality issues, benefits to customers of the local agency, and*  
12 *financial considerations related to implementation of an ordinance.*  
13 *The local agency shall consider the testimony in making its*  
14 *decision. A local public agency shall not consider the enactment*  
15 *of an ordinance until at least 30 days following the public hearing*  
16 *on the proposed ordinance. An ordinance shall become effective*  
17 *30 days from the date of final passage.*

18     (c) Actions to control residential self-regenerating water softener  
19 salinity inputs authorized by subdivision (b) include, but are not  
20 limited to, actions to do any of the following:

21     (1) Require that residential self-regenerating water softeners  
22 sold within the jurisdiction of the local agency be rated at the  
23 highest efficiency commercially available.

24     (2) Require that plumbing permits be obtained prior to the  
25 installation of residential self-regenerating water softeners.

26     (3) Require that residential self-regenerating water softeners be  
27 plumbed to hook up to hot water only.

28     (4) Require that potassium chloride be used in residential  
29 self-regenerating water softeners instead of sodium chloride, if  
30 water quality conditions warrant.

31     (5) Enact a voluntary ~~“buy-back”~~ *buy-back* program for the  
32 removal of existing residential self-regenerating water softeners,  
33 consistent with existing law. *A voluntary buy-back program may*  
34 *be conducted in cooperation with local water treatment businesses.*

35     (6) Require the removal of previously installed residential  
36 self-regenerating water softeners.

37     (7) Prohibit the installation of residential self-regenerating water  
38 softeners.

1 (8) *Require the retrofit of clock control and demand control*  
2 *systems on previously installed residential self-regenerating water*  
3 *softeners.*

4 (9) *Require the replacement of previously installed residential*  
5 *self-regenerating water softeners with appliances that meet or*  
6 *exceed the salt efficiency rating set forth in paragraph (2) of*  
7 *subdivision (b) of Section 116875 of the Health and Safety Code.*

8 (d) ~~If a local agency adopts an ordinance or resolution to require~~  
9 ~~the removal of previously installed residential self-regenerating~~  
10 ~~water softeners pursuant to paragraph (6) of subdivision (c), the~~  
11 ~~local agency shall make available to owners of residential~~  
12 ~~self-regenerating water softeners within its service area a program~~  
13 ~~to compensate the owner of the residential self-regenerating water~~  
14 ~~softener for the reasonable value of the removed residential~~  
15 ~~self-regenerating water softener, as determined by the local agency.~~

16 (e) *Before a local agency may take action to control salinity*  
17 *input from residential self-regenerating water softeners pursuant*  
18 *to subdivision (b), a regional board with jurisdiction over a region*  
19 *identified in subdivision (a) shall have made a finding at a public*  
20 *hearing that the control of residential salinity input will contribute*  
21 *to the achievement of water quality objectives. The finding may*  
22 *be made in any of the following water quality actions adopted by*  
23 *a regional board:*

24 (1) *A total daily maximum load that addresses salinity-related*  
25 *pollutants in a water segment.*

26 (2) *A salt and nutrient management plan for a groundwater*  
27 *basin or subbasin.*

28 (3) *Waste discharge requirements for a local agency discharger.*

29 (4) *Master reclamation permit for a supplier or distributor of*  
30 *recycled water.*

31 (5) *Water recycling requirements for a supplier or distributor*  
32 *of recycled water.*

33 (6) *Cease and desist order for a local agency.*

34 ~~(e)~~

35 (f) *The regional board making a finding pursuant to subdivision*  
36 ~~(b)~~ (e) *shall base its finding on the evidence in the record. The*  
37 *standard of judicial review required for a finding made pursuant*  
38 *to subdivision-*~~(b)~~ (e) *shall be the same as the standard of review*  
39 *required for the water quality action in which the finding is made.*

40 ~~(f)~~

1 (g) This section does not require a local agency to adopt an  
2 ordinance or resolution if a finding is made pursuant to subdivision  
3 (b).

4 ~~(g)~~

5 (h) This section does not limit the use of portable exchange  
6 water softening appliances or limit the authority of a local public  
7 agency to regulate the discharge from a centralized portable  
8 exchange tank servicing facility into the community sewer system.

9 (i) *A local agency that meets the requirements of subdivision  
10 (b) is authorized to take action by ordinance to effectuate the  
11 purposes of this section whether or not that local agency may  
12 otherwise take action by adopting an ordinance.*

13 (j) *For purposes of this section, “residential self-regenerating  
14 water softener” means residential water softening equipment or  
15 conditioning appliances that discharge brine into a community  
16 sewer system.*

17 SEC. 3. The Legislature finds and declares that it is necessary  
18 to address elevated levels of salinity in community sewer systems  
19 in specified hydrologic regions of the state. It is therefore hereby  
20 declared that a general law within the meaning of Section 16 of  
21 Article IV of the California Constitution cannot be made applicable  
22 to those specified hydrologic regions and the enactment of this  
23 special law is necessary for the public good.